

# TRANSCRIPT OF RECORD.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 229.

WILLIAM C. GLASS, PLAINTIFF IN ERROR,

VS.

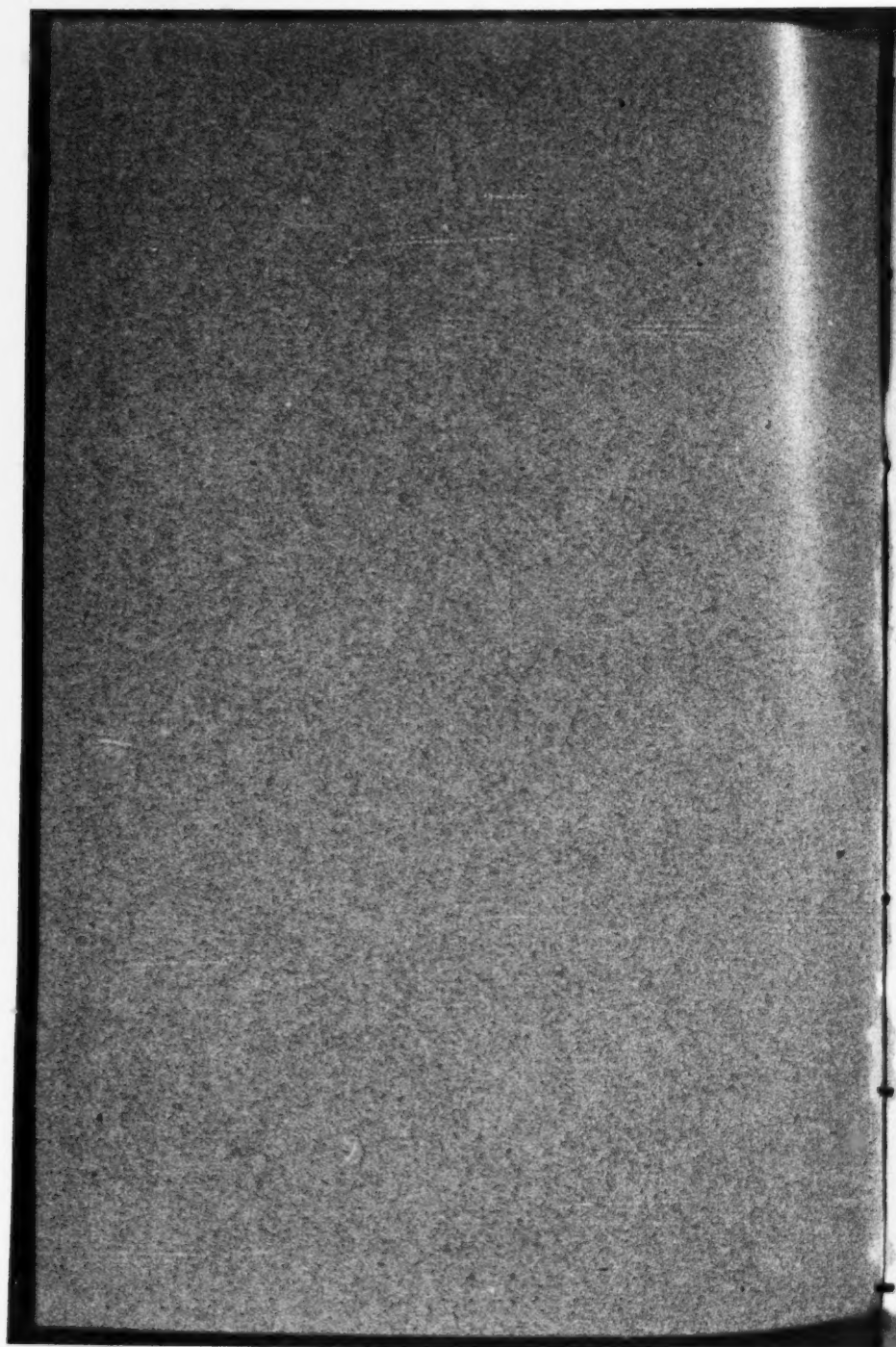
THE POLICE JURY OF THE PARISH OF CONCORDIA.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR  
THE EASTERN DISTRICT OF LOUISIANA.

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FILED MARCH 11, 1899.

(17,320.)



(17,320.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 735.

WILLIAM C. GLASS, PLAINTIFF IN ERROR,

*vs.*

THE POLICE JURY OF THE PARISH OF CONCORDIA.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR  
THE EASTERN DISTRICT OF LOUISIANA.

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a UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

WILLIAM C. GLASS, Plaintiff in Error,	}	No. 8283.
<i>versus</i>		
THE POLICE JURY OF THE PARISH OF CONCORDIA, Defendant in Error.		

John D. Rouse, Esq., and William Grant, Esq., for plaintiff in error; Messrs. Farrar, Jonas, Kruttschnitt & Gurley, and J. N. Luce, Esq., for defendant in error.

Writ of error to the circuit court of the United States for the eastern district of Louisiana from the Supreme Court of the United States of America, returnable within thirty (30) days from the fifteenth (15th) day of February, A. D. 1899, at the city of Washington, D. C.

*Transcript of Record.*

1 United States Circuit Court, Eastern District of Louisiana, New Orleans Division.

WILLIAM C. GLASS	}	No. 8283. Original Petition Filed November 2nd, 1877.
<i>vs.</i>		
POLICE JURY OF CONCORDIA PARISH.		

Amended petition. Filed June 17, 1898.

To the honorable the judges of the circuit court of the United States for the district of Louisiana:

The amended petition of William C. Glass, a citizen of the State of Missouri, residing in Kansas City, respectfully represents that the Police Jury of the Parish of Concordia, a municipal corporation created by virtue of the laws of the State of Louisiana and a citizen of said State, is indebted unto your petitioner in the sum of (\$16,260.27), sixteen thousand two hundred and sixty &  $\frac{27}{100}$  dollars, with interest, as hereinafter mentioned, for this, to wit:

Your petitioner is the owner of certain drafts, orders, or warrants, drawn by the proper officers of said parish of Concordia on the parish treasurer, a descriptive list of which is hereunto annexed for reference, and said drafts, orders, or warrants constitute legal evidence of work performed for the said parish and by virtue of its authority, and that the payees of said warrants were entitled to be paid by the treasurer of said parish the respective amounts of said warrants in the manner and out of the funds therein specified.

Petitioner avers that on the first day of November, 1866, an ordinance was passed by said police jury to provide for the funding of the indebtedness of said parish, and said ordinance was amended the 22 of January, 1867; that said ordinance of November 1st, 1866, as amended in January, 1867, provided for

the issue of coupon bonds, negotiable in form, payable twelve years after date, with six per cent. per annum interest from date, to be delivered to such creditors of said parish as should assent to the funding mentioned in said ordinance as amended, all of which will appear by said ordinances to be produced upon the trial hereof.

Petitioner avers that, in pursuance of the invitation extended to the creditors of said parish, the said warrants or orders held and owned by him were presented to said police jury, and the same were exchanged for coupon bonds, authorized as aforesaid, which bonds are still in petitioner's possession and will be produced upon the trial of this cause.

Petitioner avers that said police jury in the years 1867, 1868, 1869, 1870, 1871, 1872, & 1873 recognized the validity of said bonds and levied taxes to meet and pay the interest and part of the principal thereof, as required by the terms of said ordinance of November, 1866, as amended in 1867.

Petitioner avers that by the terms of the sixth section of said ordinance of November 1st, 1866, by virtue of which said bonds were issued, it was agreed "that it shall be the duty of the police jury to assess each year taxes sufficient to pay the interest on the bonds therein directed to be issued, and to absorb such portion of the principal as may be practicable, and on failure so to assess and apply such tax, the holders of the bonds shall be entitled to all the rights and remedies heretofore existing or arising from assessments already made for the payment of the original debt."

Petitioner avers that the said Police Jury of the Parish of Concordia have not only failed to levy any taxes for the year  
3 1874 and subsequent years to meet the payment of the interest on said bonds issued as aforesaid in exchange for the original obligations; but they positively refuse so to do, and have repudiated said bonds. Petitioner avers that by this conduct on the part of said Police Jury of the Parish of Concordia he is entitled, under the terms of the ordinance aforesaid, to resort to such proceedings as he may see fit to enforce the original obligations aforesaid.

Petitioner further avers that said warrants or orders were each in form similar to Exhibit "A," hereto annexed and made part of this petition, and were made payable to Mathew Carr or order, who was a citizen of the State of Louisiana, and were owned by him at the date of his death, in 1863, and were part of his estate; that his succession was opened in the probate court for the said parish of Concordia, and that plaintiff acquired the ownership of said warrants or orders and the bonds issued in exchange therefor under the said funding ordinance by purchase at a sale of the assets of the estate of said Carr on the 22nd of May, 1868, made by the sheriff of said parish, under the authority of an order of said probate court having the administration of said succession, and that plaintiff was a citizen of the State of Missouri at the time of said purchase.

Wherefore petitioner prays that the Police Jury of the Parish of Concordia, through its president or other proper officer, be cited to appear and answer this petition, and after due proceedings con-

demned to pay petitioner the aforesaid sum of sixteen thousand two hundred and sixty dollars & twenty-seven cents (\$16,260.27), the amount of said original warrants or obligations, with interest, as specified in the descriptive list thereof, hereto annexed, with costs of suit; and petitioner prays for general relief.

(Signed)

ROUSE & GRANT, Att'ys.

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Let this amended petition be filed.

June 17th, 1898.

(Signed)

CHARLES PARLANGE,

U. S. Judge.

ENGINEER'S OFFICE,

PARISH OF CONCORDIA, January 20, 1863.

To the treasurer of the parish of Concordia:

Pay Matthew Carr or order \$13.554 and charge same to account of general levee fund.

(Signed)

WILLIAM EUSTIS,

Levee Engineer.

EXHIBIT A.

*Exception to Jurisdiction. Filed June 17, 1898.*

U. S. Circuit Court, Eastern District of Louisiana.

WILLIAM C. GLASS

vs.

POLICE JURY OF THE PARISH OF CONCORDIA.

} No. 8283.

Now comes The Parish of Concordia, made defendant in this cause, and for exception to the original and supplemental petition herein filed avers that this honorable court is without jurisdiction to hear and entertain this cause, because it appears that the suit is brought upon a chose in action acquired by the plaintiff from a citizen of the State of Louisiana, on which chose of action the said original holder thereof could not sue in this court.

Wherefore defendant prays that this exception may be maintained and the plaintiff's suit dismissed, with costs.

(Signed)

( " )

J. N. LUCE,

FARRAR, JONAS, KRUTTSCHNITT &

GURLEY, Att'ys.

5 *Agreement Submitting Case on Exception to the Jurisdiction.*

Filed June 17, 1898.

United States Circuit Court for the Eastern District of Louisiana.

WM. C. GLASS  
vs.  
POLICE JURY OF THE PARISH OF CONCORDIA. } No. 8283.

The written submission heretofore made on the 1st of June, 1887, is set aside, and it is agreed that the case shall now be tried solely on the defendant's exception to the jurisdiction of the court, all questions going to the merits to be reserved for trial after said exceptions is decided.

New Orleans, La., June 7, 1898.

(Signed) ROUSE & GRANT, *For Plaintiff.*

(Signed) J. N. LUCE.

(Signed) FARRAR, JONAS, KRUTTSCHNITT &  
GURLEY, *Att'ys — Def't.**Submission of Case on Exception to the Jurisdiction.*

Extract from the Minutes, April Term, 1898.

NEW ORLEANS, SATURDAY, June 18, 1898.

Court met pursuant to adjournment.

Present: Hon. Charles Parlange, district judge.

WM. C. GLASS  
vs.  
POLICE JURY, PARISH OF CONCORDIA. } No. 8283.

The plea to the jurisdiction of the court, filed by the defendant herein, came on this day for hearing under the agreement on file—Farrar, Jonas, Kruttschnitt & Gurley and J. N. Luce appearing for the Police Jury of Concordia in support of plea; Rouse & Grant for plaintiff in the cause—and was argued and submitted, when the court took time to consider.

6 *Judgment Maintaining Exception, &c.*

Entered and filed January 14, 1899.

United States Circuit Court, Eastern District of Louisiana.

WM. C. GLASS  
vs.  
POLICE JURY OF THE PARISH OF CONCORDIA. } No. 8283.

This cause came on to be heard at this term on the defendant's exception to the jurisdiction of the court and was argued by counsel; whereupon, in consideration whereof and for the reasons on file, it is now ordered that the defendant's said exception be main-



tained, and that plaintiff's petition be dismissed with costs, but without prejudice to his right to renew his action in any competent court and with leave to amend if plaintiff is so advised.

New Orleans, La., January 14th, 1899.

(Signed)

CHARLES PARLANGE,

U. S. Judge.

*Certificate as to Jurisdiction. Filed January 14th, 1899.*

United States Circuit Court, Eastern District of Louisiana.

WM. C. GLASS

vs.

POLICE JURY OF THE PARISH OF CONCORDIA.

No. 8283.

This cause was tried at the present term of the court solely on the defendant's exception to the jurisdiction of the court, and it appearing from the jurisdictional facts alleged in plaintiff's petition, admitted to be true by said exception, that the warrants and orders sued on were payable to the order of Matthew Carr, deceased, who was a citizen of the State of Louisiana, and were assets of his estate, and that the plaintiff acquired title thereto through a judicial sale made by the sheriff of the parish of Concordia on the 22d day of May, 1868, under authority of an order of the probate court of said parish having the administration of said estate; that plaintiff at the date of his said purchase and at the date of filing his original petition herein, on the 2d day of November, 1877, was a citizen of the State of Missouri, and that the defendant was a citizen of the State of Louisiana.

Under the state of facts the only question at issue upon the trial of said exception was whether the case, for the purpose of jurisdiction, comes within the following restriction imposed by section I of the act of Congress approved March 3, 1875: "Nor shall any circuit or district court have cognizance of any suit founded on contract in favor of an assignee, unless a suit might have been prosecuted in such court to recover thereon if no assignment had been made, except in cases of promissory notes, negotiable by the law merchant and bills of exchange."

And the court, for the reasons set forth in the written opinion hereto annexed and made part hereof, has this day maintained the defendant's exception to the jurisdiction of this court and dismissed plaintiff's petition, with leave to amend, if so advised, and without prejudice, and now grants this certificate for the purpose of enabling the plaintiff to obtain a review by the supreme court of said jurisdictional question under the 5th section of the act of Congress approved March 3, 1891.

New Orleans, La., January 14th, 1899.

(Signed)

CHARLES PARLANGE,

U. S. Judge.



*Opinion on Exception. Filed January 14th, 1899.*

United States Circuit Court, Eastern District of Louisiana.

WILLIAM C. GLASS

vs.

POLICE JURY OF THE PARISH OF CONCORDIA.

} No. 8283.

Opinion of the court on defendant's exception to the jurisdiction.

PARLANGE, J. :

Plaintiff, a citizen of the State of Missouri, brought this suit against the Police Jury of the Parish of Concordia, a municipal corporation created by the laws of the State of Louisiana, on certain warrants issued by the municipal corporation for levee work done by one Matthew Carr.

The plaintiff alleges :

"The petitioner further avers that said warrants or orders were each in form similar to Exhibit 'A,' hereto annexed and made part of this petition, and were made payable to Mathew Carr or order, who was a citizen of the State of Louisiana, and were owned by him at the date of his death, in 1863, and were part of his estate; that his succession was opened in the probate court for the said parish of Concordia, and that plaintiff acquired the ownership of said warrants or orders and the bonds issued in exchange therefor under the said funding ordinance by purchase at a sale of the assets of the estate of said Carr, on the 22nd of May, 1868, made by the sheriff for said parish under the authority of an order of said probate court, having the administration of said succession, and that plaintiff was a citizen of the State of Missouri at the time of said purchase."

It is well settled that the pleadings in a cause brought in a Federal court must plainly show the jurisdiction upon their face. It is also clear that in suits by assignees of choses in action the pleadings must show that the assignor could have sued if there had been no assignment.

In this case the court is unable to determine from the pleadings the ground upon which the plaintiff bases the jurisdiction. It is essential that this be made plain. It may be plaintiff's conception that the proceedings in the succession of Carr operated a devolution of Carr's title in the warrants upon the plaintiff by operation of law, and that plaintiff is not the assignee of Carr; or plaintiff may be relying upon the position that the title of Carr in the warrants vested in some administrator of executor who would have been competent to sue in this court, and that plaintiff acquired from him.

Or plaintiff may be relying on other grounds still; but, whatever may be the view under which plaintiff brought this suit, he must set out the facts showing the jurisdiction.

It is plain to the court that the petition, as it now stands, does not set out a jurisdictional fact. The exceptions must be sustained

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and the petition dismissed, with leave to plaintiff to amend, if so advised.

*Petition for Writ of Error and Order. Filed February 15th, 1899.*

United States Circuit Court, Eastern District of Louisiana.

WILLIAM C. GLASS

vs.

THE POLICE JURY OF THE PARISH OF CONCORDIA.

} No. 8283.

To the Honorable Charles Parlange, district judge, presiding in and holding said circuit court:

The petition of William C. Glass, plaintiff in the above-entitled cause, respectfully shows that he is desirous of suing out a writ of error from the Supreme Court of the United States to reverse the judgment herein rendered against him on the exception to the jurisdiction of the court; that he herewith presents a writ of error and citation thereon, in due form, together with bond and  
10 surety for costs, according to law, together with his assignment of errors.

Wherefore he prays that said writ of error be allowed and made returnable to the Supreme Court of the United States within 30 days from the date hereof, to operate as a supersedeas upon a bond for \$100, conditioned as the law directs.

(Signed)

( " )

J. D. ROUSE,

WM. GRANT,

*Att'ys for Plaintiff.*

*Order.*

Let a writ of error issue as prayed, to operate as a supersedeas upon plaintiff giving bond in the sum of \$100, with surety conditioned as the law directs.

New Orleans, La., February 15th, 1899.

(Signed)

CHARLES PARLANGE,

*United States Judge.*

*Assignment of Errors. Filed February 15th, 1899.*

Supreme Court of the United States, October Term, 1898.

WM. C. GLASS, Plaintiff in Error,

vs.

POLICE JURY OF CONCORDIA PARISH, Defendant in Error.

Assignment of errors by plaintiff in error.

1°. The circuit court erred in maintaining the defendant's exception to its jurisdiction and dismissing the plaintiff's suit.

2°. The circuit court erred in holding that the judicial sale of the warrants sued on in this case, made in the succession of Matthew Carr, deceased, was an assignment of said warrants, and that  
11 the plaintiff, who purchased the same at such sale, is an assignee thereof, incapable of suing thereon in the circuit court,

although a citizen of the State of Missouri, because neither the said Matthew Carr in his lifetime nor his legal representatives since his death are averred to have possessed the requisite citizenship to sue in that court if no assignment had been made, and in maintaining for these reasons the defendant's exception to the jurisdiction of the circuit court.

(Signed)  
( " )

J. D. ROUSE,  
WM. GRANT,

*Attorneys for Plaintiff in Error.*

*Bond for Writ of Error. Filed February 15, 1899.*

Know all men by these presents that we, William C. Glass, as principal, and William Grant, as surety, are held and firmly bound unto the Police Jury of the Parish of Concordia in the full and just sum of one hundred dollars, to be paid to the said Police Jury of the Parish of Concordia, its certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 15th day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

Whereas lately, at a circuit — of the United States, fifth judicial circuit, holding sessions in and for the eastern district of Louisiana, in a suit depending in said circuit court, wherein William C. Glass is plaintiff and the Police Jury of the Parish of Concordia is defendant, a judgment was rendered against the said William C. Glass, plaintiff, on the 14th day of January, 1899, dismissing his suit for want of jurisdiction; and the said William C. Glass, plaintiff, 12 having obtained a writ of error and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit, and a citation directed to the said Police Jury of the Parish of Concordia, citing and admonishing it to be and appear at the Supreme Court of the United States, to be holden at Washington, within thirty days from the date of said writ:

Now the condition of the above obligation is such that if the said William C. Glass shall prosecute his writ to effect and answer all damages and cost if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

(Signed)

WM. C. GLASS,

By WM. GRANT, *His Att'y.* [L. S.]

(Signed)

WILLIAM GRANT. [L. S.]

February 15, 1899.

Approved by—

(Signed) CHARLES PARLANGE, *U. S. Judge.*

(Endorsed:) United States circuit court, eastern district of Louisiana. William C. Glass vs. Police Jury, Parish of Concordia. Bond for writ of error.

13 UNITED STATES OF AMERICA, ss :

The President of the United States to the honorable the judges of the circuit court of the United States in and for the fifth circuit and holding sessions for the eastern district of Louisiana, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you or some of you, between William C. Glass, plaintiff, and The Police Jury of the Parish of Concordia, defendant, No. 8283 on the docket of said circuit court, involving the jurisdiction thereof, a manifest error hath happened, to the great damage of the said William C. Glass, plaintiff, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, in the said Supreme Court, within 30 days from the date hereof, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court of the United States, this fifteenth day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

E. R. HUNT,  
*Clerk of the United States Circuit Court for the  
Eastern District of Louisiana.*

Allowed by—  
CHARLES PARLANGE,  
*U. S. Judge.*

14 [Endorsed:] United States circuit court. No. 8283. William C. Glass *versus* Police Jury, Parish of Concordia. Writ of error. No. —. U. S. circuit court, eastern district of Louisiana, New Orleans division. Filed Feb. 15, 1899. E. R. Hunt, clerk.

I, Edward R. Hunt, clerk of the U. S. circuit court for the eastern district of Louisiana, hereby certify that a copy of the within writ of error has been lodged in the clerk's office of said court for the inspection of and notice to the defendant in error by attorney for plaintiff in error.

February 15, 1899.

E. R. HUNT, *Clerk.*

## 15 THE UNITED STATES OF AMERICA :

Circuit Court of the United States, Eastern District of Louisiana.

The President of the United States to The Police Jury of the Parish of Concordia, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within 30 days from date hereof, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein William C. Glass is plaintiff and you are defendant, No. 8283 on the docket of said court, to show cause, if any there be, why the judgment rendered against the said William C. Glass, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 15th day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

CHARLES PARLANGE, *Judge.*

16 [Endorsed:] United States circuit court, eastern district of Louisiana. No. 8283. William C. Glass vs. Police Jury, Parish of Concordia. Citation. Marshal's return. No. —. U. S. circuit court, eastern district of Louisiana, New Orleans division. Filed Feb. 17, 1899. E. R. Hunt, clerk.

NEW ORLEANS, Feb. 17th, '99.

Service of this citation is accepted.

FARRAR, JONAS, KRUTTSCHNITT  
& GURLEY,

*Att'ys for the Parish of Concordia.*

17 *Stipulation as to the Transcript of Appeal.*

Filed February 17th, 1899.

U. S. Circuit Court, Eastern District of Louisiana.

WILLIAM C. GLASS

vs.

POLICE JURY OF THE PARISH OF CONCORDIA. }

No. 8283.

For the purposes of the writ of error sued out in this cause and to save unnecessary costs, it is stipulated that the original petition, filed on the 2d day of November, 1877, and the defendant's exceptions thereto, filed December 4, 1877, and all other pleas and proceedings in the cause, except the amended petition of the plaintiff, filed June 17, 1898, and the defendant's exception to the jurisdiction of the court, filed on the same day, and the proceedings had

on such amended petition and exception, may be omitted from the transcript.

Feb'y 17, 1899.

(Signed)

FARRAR, JONAS, KRUTTSCHNITT  
& GURLEY, *Att'ys, P'sh Concordia.*

(Signed)

ROUSE & GRANT, *Att'ys for Plaintiff.*

18 UNITED STATES OF AMERICA :

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Edward R. Hunt, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 17 pages contain and form a full, complete, true, and perfect transcript of the amended petition, warrant or order marked Exhibit "A," plea to jurisdiction, agreement submitting case on exception to jurisdiction, submission of case on plea to the jurisdiction, judgment maintaining exception, certificate as to jurisdiction, opinion on exception, petition for writ of error, order on petition for writ of error, assignment of errors, bond for writ of error, writ of error, citation in error, acceptance of service of citation in error, & stipulation as to the transcript of appeal in the case of Wm. C. Glass *versus* Police Jury of Concordia Parish, No. 8283 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 8th day of March, A. D. 1899.

{ Seal U. S. Circuit Court for the 5th Circuit & }  
Eastern District of La.

E. R. HUNT, *Clerk.*

I, Charles Parlange, United States judge for the eastern district of Louisiana, do certify that Edward R. Hunt, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate and is now the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 8th day of March, A. D. 1899.

CHARLES PARLANGE, *Judge.*

Endorsed on cover: File No., 17,320. E. Louisiana C. C. U. S. Term No., 735. William C. Glass, plaintiff in error, *vs.* The Police Jury of the Parish of Concordia. Filed, March 11th, 1899.